

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CURTIS DARBY,

Plaintiff,

-against-

NEW YORK CITY POLICE DEPARTMENT; POLICE
OFFICER OMAR ELSAYED; POLICE OFFICER
MATTHEW FLORES,

Defendants.
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**DECLARATION OF
KATHRYN M.
SPROVIERI
IN SUPPORT OF
DEFENDANTS'
MOTION FOR THE
IMPOSITION OF
SANCTIONS**

14-CV-4078 (JG) (VVP)

KATHRYN M. SPROVIERI, an attorney duly admitted to practice law in the State of New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York. I was the attorney assigned to the defense of this matter between April 15, 2015 and July 24, 2015. As such, I am familiar with the facts and circumstances stated herein.

2. I submit this declaration in support Defendants' Motion for the Imposition of Sanctions against Plaintiff dated September 18, 2015.

3. On April 15, 2015, I entered a Notice of Appearance as counsel for defendants New York City Police Department, Police Officer Omar Elsayed, and Police Officer Matthew Flores.

4. When I was assigned to the defense of this case, I was subjected to numerous instances of harassment by plaintiff Curtis Darby, which I documented in a log. *See* Call Log,

annexed as Exhibit B to the Declaration of Alexander Noble. The Call Log has previously been provided to the Court and is filed under Docket Entry No. 47-1.¹

5. On May 18, 2015, plaintiff failed to appear for his Court Ordered deposition.

6. On May 21, 2015, plaintiff failed to appear for a status conference before the Honorable Viktor P. Pohorelsky.

7. On May 26, 2015, plaintiff appeared at my office unannounced and uninvited, requesting that I take his deposition.

8. At said date and time, I answered several questions for plaintiff, including those regarding discovery and possible settlement of this matter. I further instructed plaintiff not to make any future appearances at my office without authorization and prior notice.

9. On May 29, 2015, plaintiff again appeared at my office unannounced and uninvited and demanded that I settle his case. I again instructed plaintiff not to make future invited appearances at my office.

10. Beginning on approximately May 30, 2015, plaintiff began calling me regularly, on almost a daily basis, demanding that I settle his case.

11. On July 9, 2015, plaintiff failed to appear a second time for a status conference before the Honorable Viktor P. Pohorelsky, scheduled for 10:00 a.m. at the Eastern District of New York.

12. During said conference, I communicated to the Court that plaintiff's telephone calls had become increasingly harassing in nature.

¹ At the August 4, 2015 status conference, defendants objected to production of Ms. Sprovieri's log on the basis that the document contained information protected against disclosure by the attorney work-product privilege. In response, the Court stated that the asserted privilege was overcome by the Court's need for the information contained therein.

13. Later that afternoon, plaintiff appeared at the Eastern District of New York, and a teleconference was held before the Honorable Viktor P. Pohorelsky, during which the Court instructed plaintiff that it had intended to recommend dismissal of the action, and that plaintiff was required to comply with all obligations thereafter.

14. In July 2015, plaintiff's telephone calls and voicemails to me began to increase in frequency, to approximately two to three times per day.

15. Said calls and messages became increasingly hostile and harassing, with plaintiff asking me on a date, relentlessly demanding settlement, and insisting that I lied to the Court about his harassing behavior.

16. On July 24, 2015, plaintiff left me a voicemail threatening to kill me if I didn't settle his case.

17. On July 27, 2015, plaintiff left me a voicemail stating that he was sorry for threatening my life, asking that I do not inform the Court of said threat, and again requesting that I settle his case.

18. Plaintiff's hostile and harassing conduct, which culminated in a disturbing voicemail which threatened my life, caused me significant distress and fear for my safety.

19. On July 31, 2015, the case was reassigned to Assistant Corporation Counsel Alexander Noble in my office.

20. On August 4, 2015, plaintiff appeared at my office and had to be turned away by security.

Dated: New York, New York
September 18, 2015

By: /s/ Kathryn Sprovieri
Kathryn Sprovieri
Assistant Corporation Counsel
Special Federal Litigation Division
100 Church Street
New York, New York 10007
(212) 356-2383

To: Curtis Darby (by Mail)
Plaintiff Pro Se
456 Richmond Terrace
Apt # L.D.
Staten Island, NY 10301

Docket No. 14 CV 4078 (JG) (VPP)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CURTIS DARBY,

Plaintiff,

-against-

NEW YORK CITY POLICE DEPARTMENT;
POLICE OFFICER OMAR ELSAYED; POLICE
OFFICER MATTHEW FLORES,

Defendants.

**NOTICE OF MOTION
AND
DECLARATION OF ALEXANDER NOBLE
IN SUPPORT OF
DEFENDANTS' MOTION FOR THE
IMPOSITION OF SANCTIONS**

ZACHARY W. CARTER

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Attorney for Defendants Elsayed and Flores
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*Of Counsel: Alexander Noble
Tel: (212) 356-2357
NYCLIS No. 2014-027634*

Due and timely service is hereby admitted.

New York, N.Y., 2015

..... Esq.

Attorney for